



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/617,261

07/11/2003

Toyoji Ikezawa

116692004000

2393

25227 7590 12/09/2008
MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

EXAMINER

JARRETT, SCOTT L

ART UNIT

PAPER NUMBER

3624

MAIL DATE

DELIVERY MODE

12/09/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/617,261	Applicant(s) IKEZAWA ET AL.	
	Examiner SCOTT L. JARRETT	Art Unit 3624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 October 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-49 is/are pending in the application.
- 4a) Of the above claim(s) 10-49 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This **Final** Office Action is in response to Applicant's amendments filed October 10, 2008. Applicant's amendment amended claims 4-9. Currently Claims 1-49 are pending, with claims 10-49 being withdrawn as directed to a non-elected invention.

Response to Amendment

2. The objection to the Title in the previous office action is withdrawn in response to Applicant's amendment to Title.

The 35 U.S.C. 112(1) rejection of claims 3-4 and 6 is withdrawn in response to Applicant's amendments to claims 3-4 and 6.

Response to Arguments

3. Applicant's arguments filed October 10, 2008 have been fully considered but they are not persuasive. Specifically Applicant's argue that the prior art of record fails to teach or suggest sales activity support system and method comprising: an action pattern storage unit which stores an action pattern made of a work objective and a performance time which are obtained by analyzing a sales activity of a high performance salesperson; an activity plan creation unit which creates an activity plan for each business deal based on an action pattern selected from the action plan storage unit in accordance with the stored business information and notifies the created activity plan to the registered concerned people (Remarks: Page 18, Paragraphs 1-2, Page 19).

In response to Applicant's arguments that the prior art of record, specifically Thompson et al., U.S. Patent No 7,216,087, fails to teach or suggest all the limitations of independent claims 1 and 7-9 (as now amended) the examiner respectfully disagrees.

Thompson et al., teach a sales activity support system and method comprising:

- an action pattern storage unit which stores an action pattern made of a work objective and a performance time which are obtained by analyzing a sales activity of a high performance salesperson ("In any given sales cycle, the model says that a certain number and type of critical customer interactions should occur. Also, the model specifies roughly when these interactions should occur, in which phase, and which point in that phase. *This information can be determined using past experience and **expert knowledge** and is entered in advance for a particular sales opportunity by, for example, the sales manager.*", emphasis added, Column 12, Lines 17-24; "Ideal Sales Cycle", Column 8, Lines 60-68; Column 9, Lines 1-3; "There is another component of selling, however, that is dependent on *well-established techniques and rules that have been developed and proven over many years*, which can be referred to as "the science of selling". The sales model used in the present invention models the selling process using principles more properly characterized as belonging to the science of selling.", emphasis added; Column 8, Lines 23-28; Figures 1, 5);

- an activity plan creation unit ("Intelligent Response Mode", Column 23) which creates an activity plan (strategy, advice, guidance, etc.) for each business deal based

Art Unit: 3624

on an action pattern selected from the action plan storage unit in accordance with the stored business information (Column 3, Lines 30-45; Column 4, Lines 2-6; Column 7, Lines 2-30; Column 14, Lines 20-54; Column 15, Lines 5-18; Columns 23-24); and

- notifies (displays, warns, provides notice, etc.) the created activity plan to the registered concerned people (e.g. display "Advisor Messages" to sales representative associated with the deal/opportunity; Column 5, Lines 18-26; Column 11, Lines 54-59; Column 28, Lines 31-55; Column 29, Lines 10-15, 30-45; Figure 17A, 19A-B, 20A-20I).

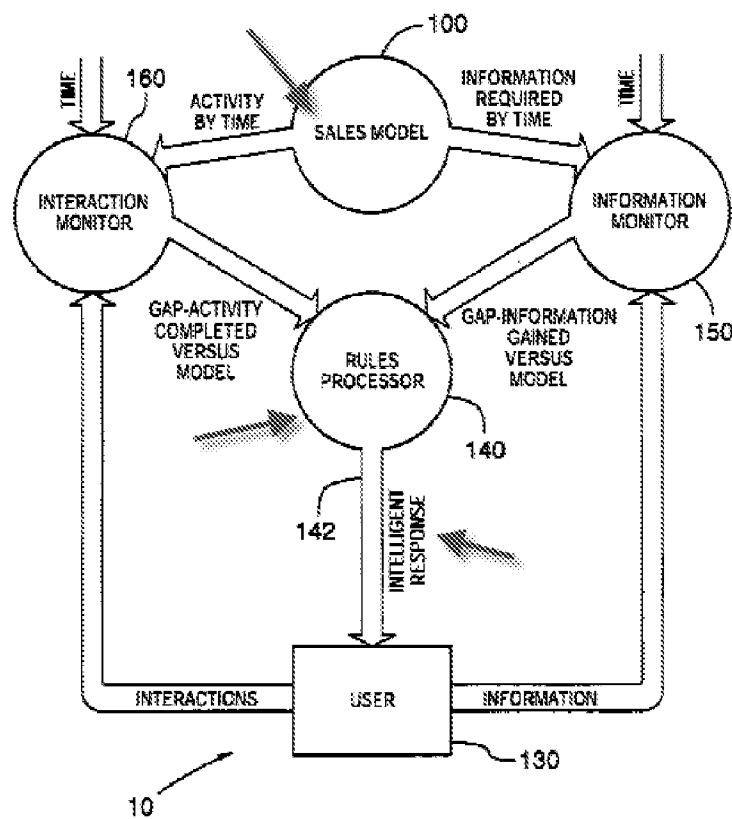


FIG.1

Art Unit: 3624

244 Will it Happen?		246 Sales Environment		250 Summary
Salesperson	Advisor	Funding	Level of Need	
High	Med	Certain	Low	Advisor Warning - The customer's need is low.
High	Med	Fair	Urgent	Advisor Warning - only an even chance of funding
High	Med	Fair	Normal	Advisor Warning - only an even chance of funding
High	Med	Low	Urgent	Advisor Warning - funding is at risk
High	Low	Fair	Low	Advisor Warning - even chance of funding, but customer's need is low.
High	Low	Low	Normal	Advisor Warning - funding is at risk
High	Low	Low	Low	Advisor Warning - No Money + Low Need = NO SALE!
Med	High	Certain	Urgent	Advisor Alert - The customer has money and a need. This sale will happen
Med	High	Certain	Normal	Advisor Alert - The customer has money and this sale is very probable.
Med	Low	Fair	Low	Advisor Warning - even chance of funding, but customer's need is low.
Med	Low	Low	Normal	Advisor Warning - funding is at risk
Med	Low	Low	Low	Advisor Warning - This customer doesn't have money or need. This sale won't likely happen.
Low	High	Certain	Urgent	Advisor Alert - This sale will happen - the customer has money and a need.
Low	High	Certain	Normal	Advisor Alert - This sale will happen - the customer has money and a need.
Low	Med	Certain	Low	Advisor Alert - funding will happen - despite low need.
Low	Med	Fair	Urgent	Advisor Alert - customer has a need and might get money

FIG.19A

CASE 1			270		
Gui Feeling Index:	7, 8, or 9	272	User	User	User
Computer Index:	1, 2, or 3	273			
Header Message:	"Possible Strategies:"	274	Computer	Computer	Computer
PROBE	PROVE	CLOSE			
"It's early days and you are very confident- the Advisor is not optimistic and thinks that you may need to reevaluate your assessment"	"You think that you are ahead of the competition, but the Advisor thinks that you need to do more to secure this sale. There is still time to get ahead"	"Advisor warning!- You are over confident, there is little to support your optimism - you need to reassess your position and if appropriate find a breakthrough strategy, or even walk away"			
276	278	280			

FIG.20A

It is noted that the phrase “high performance salesperson” merely represents non-functional descriptive material and is not functionally involved in the steps recited nor do they alter the recited structural elements. The recited method steps would be performed the same regardless of the specific level of performance of the salesperson analyzed. Further, the structural elements remain the same regardless of the specific level of performance of the salesperson analyzed. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, *see In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994); *MPEP* 2106.

It is noted that generating action patterns (e.g. best practices) based on analyzing the behavior of high performance employees (e.g. salespersons) is old and very well known and is commonly referred to as best practice modeling, expert performance modeling and/or competency-based modeling as evidenced by at least the following references:

- Cunliffe, Super systems capture expertise of the specialist (1986), teach the well known analysis of high performance workers/employees in order to capture and utilize the expert knowledge/experience of the high performance persons (experts).
- Kelly Services Expands KellyConnect Call Center Solution (2002), teaches a sales activity sales support system and method comprising: client information and action pattern storage wherein action patterns are obtained by analyzing a sales activity of a high performance salesperson (“The KellyConnect courses are based on Expert

Art Unit: 3624

Performance Modeling which enables employees to follow the strategies used by top performers....”).

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-9 are rejected under 35 U.S.C. 102(e) as being anticipated by Thompson et al., U.S. Patent No. 7,216,087.

Regarding Claim 1 and 7-9 Thompson et al. teach a sales activity support system and method comprising:

- a client information storage unit which stores client information and business deal information on a business deal of the client (Column 7, Lines 39-44; Figure 2, Element 186);
- an action pattern ("intelligent response", "suggestion", "Advisor message") storage unit which stores an action pattern made of a work objective and a performance time which are obtained by analyzing a sales activity of a (high performance, expert, sales manager) salesperson (Column 3, Lines 13-40; Column 8, Lines 65-68; Column 9, Lines 1-10; Column 12, Lines 19-24; Column 22, Lines 50-63; Figures 17a-17b);

- a contact information storage unit which stores contact information of concerned people (supervisor, manager, team lead, person in charge, etc.) who are to support a sales activity (Column 7, Lines 39-44);

- an activity plan creation unit which creates an activity plan ("intelligent response", "suggestion", "Advisor message") for each business deal based on an action pattern selected from the action plan storage unit in accordance with the stored business information (Column 5, Lines 10-25; Column 7, Lines 17-30; Column 14, Lines 46-68; Figures 8a-8b, 19-19b); and

notifies the created activity plan to the registered concerned people (Column 15, Lines 9-14; Figures 20a-20i).

Regarding Claim 2 Thompson et al. teach a sales activity and support system and method further comprising (Column 3, Lines 55-68; Column 4, Lines 1-6):

- an activity plan storage unit which stores created activity plan (Column 7, Lines 17-45; Figure 2);

- an activity achievement storage unit which stores an actually performed sales activity of a sales person (Column 22, Lines 63-68; Figures 14, 17a-17b); and

- a progress management unit which compares the activity plan stored with the actually performance sales activity for each business deal, and if there is a difference between the activity plan and actual performed sales activity notifies the difference to a supervisor of a salesperson in charge of the business deal (Column 8, Lines 65-68;

Art Unit: 3624

Column 9, Lines 1-10; Column 14, Lines 20-68; Column 28, Lines 56-68; Column 29, Lines 1-9).

Regarding Claim 3 Thompson et al. teach a sales activity support system and method wherein the system determines there is a difference between an activity plan and an actual sales activity for a business deal, the activity plan creation unit selects an action pattern from the action plan storage unit and corrects the activity plan (Column 5, Lines 18-25; Column 14, Lines 20-68; Column 15, Lines 1-25).

Regarding Claim 4 Thompson et al. teach a sales activity and support system and method wherein each time actual sales activity information is stored and updated in the achievement storage unit, the activity plan creation unit selects an action plan and updates the activity plan (Column 5, Lines 18-25; Column 28, Lines 56-68; Column 29, Lines 1-9).

Regarding Claim 5 Thompson et al. teach a sales activity and support system and method wherein the activity plan creation unit calculates an appropriate cycle of visits (calls, contacts, probing, meeting, etc.) for each business deal based on the performance time stored in the action pattern storage unit, determines a visiting date and an objective for at least a next visit and visits thereafter and notifies the visiting date and objective of the visit to the concerned people (Column 14, Lines 20-68; Column 10,

Art Unit: 3624

Lines 1-18; Column 22, Lines 63-68; Column 23, Lines 1-5; Column 28, Lines 56-68;
Column 29, Lines 1-9; Figures 14, 17a).

Regarding Claim 6 Thompson et al. teach a sales activity and support system and method wherein the activity plan creation unit notifies concerned people whether a visit to a client on the visiting date itself or on a later date, based on a sales activity experience and know-how of a sales person (Column 8, Lines 65-68; Column 9, Lines 1-10; Column 12, Lines 19-24; Column 28, Lines 56-68; Column 29, Lines 1-9).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Feasel et al., Training can produce better reps (1998), teaches the well known analysis of high performance (star) salespersons in order to improve the performance of other salespersons who copy/model the star salespersons best practices (action plans).
- Gillis et al., The Ideal Rep (2000) teaches the well known use of competency based training wherein actions/activities/training materials are obtained by analyzing the activities of high performance employees/workers (sales representatives).

- Cooper, Effective Competency Modeling & Reporting (2000) teach the identification and modeling (analyzing) of high performance employees/workers in order to improve the performance of other employees/workers and organizations as a whole.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SCOTT L. JARRETT whose telephone number is (571)272-7033. The examiner can normally be reached on Monday-Friday, 8:00AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bradley Bayat can be reached on (571) 272-6704. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Scott L Jarrett/
Primary Examiner, Art Unit 3624